



Washington Firearms Laws Summary 2018

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I. Definition of a Firearm (RCW 9.41.010)

A firearm is defined as a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

Firearms are generally grouped into two main categories: pistols or handguns and long guns. Washington law defines pistol as any firearm with a barrel less than sixteen inches in length, or designed to be held and fired by the use of a single hand.

The term "long gun" is not used in the code, but includes the defined terms of rifle and shotgun.

- Rifle: a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
- Shotgun: a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

Unlawful Firearms (RCW 9.41.190-.230)

Certain firearms are specifically prohibited under the code. Prohibited firearms include machine guns, short-barreled rifles, and short-barreled shotguns.

- Machine gun: any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.
- Short-barreled rifle: a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.
- Short-barreled shotgun: a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

It is illegal to possess any of the above prohibited firearms. Any prohibited firearms may be seized by law enforcement if discovered. Possession of an unlawful firearm is a class C felony. The use of an unlawful firearm in the commission of a felony is punishable as a class A felony.

In 2018, the legislature also prohibited the sale and possession of any bump-fire stock device. Effective July 1, 2018, it is unlawful for any person to manufacture or sell any bump-fire stock. Effective July 1, 2019, it is additionally unlawful for any person to purchase or possess a bump-fire stock. The Washington State Patrol is directed to establish and administer a bump-fire stock buy-back program to allow a person to relinquish a bump-fire stock. The program is effective between July 1, 2018 and June 30, 2019.

II. Eligibility to Possess Firearms (RCW 9.41.040)

The right to bear arms is an individual right under the United States Constitution and the Constitution of the State of Washington. That right is not, however, without restriction.

The following persons are prohibited from possessing firearms:

- Any person convicted or found not guilty by reason of insanity of any felony;
- Any person convicted or found not guilty by reason of insanity of any of the following crimes committed by one family or household member against another: assault in the 4th degree, coercion, stalking, reckless endangerment, criminal trespass in the 1st degree, or violation of the provisions of a protection order or no-contact order restraining the person or the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);
- Any person convicted or found not guilty by reason of insanity of harassment when committed by one family or household member against another;
- During any period of time a person is subject to a restraining order or no contact order that explicitly prohibits the use of physical force against an intimate partner or the partner's child.
- After having been involuntarily committed for mental health treatment unless the person's right to possess a firearm has been restored;
- If the person is under eighteen years of age (however, see Possession of Firearms by Minors);
- If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

At the time a person is convicted or found not guilty by reason of insanity or at the time the person is committed for mental health treatment, the court must notify the person orally and in writing that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless the person's right to do so is restored by a court of record. Within three days after conviction, the court must forward a copy of the person's driver's license along with the date of conviction to the Department of Licensing for purposes of license revocation.

A person in possession of a firearm who has been convicted or found not guilty by reason of insanity of a serious offense is guilty of unlawful possession of a firearm in the first degree, a Class B felony.

A person in possession of a firearm who is prohibited from possession for any other reason is guilty of unlawful possession of a firearm in the second degree, a Class C felony.

Possession of Firearms by Minors and Persons age Eighteen to Twenty-One

A person under the age of eighteen may possess a firearm if the minor is:

- In attendance at a hunter's safety course or a firearms safety course;
- Engaging in practice in the use of a firearm or target shooting at a shooting range;
- Engaging in organized competition involving the use of a firearm;
- Hunting or trapping under a valid license;
- In an area where shooting a firearm is permitted and: the person is at least 14 years of age, has been issued a hunter safety certificate, and is not using a pistol; or the person is under the supervision of an adult.
- Is on private property and under the control of a parent or guardian; or
- Is a member of the armed services. (RCW 9.41.040.)

Unless an exception applies, a person at least eighteen years of age but less than twenty-one, may possess a pistol only:

- In the person's place of abode;
- At the person's fixed place of business;
- On real property under his or her control; or
- Under any of the circumstances listed above for which a minor may possess a firearm. (RCW 9.41.240.)

Exemptions for Military Service Members

In several circumstances, Washington law exempts a member of the Armed Forces of the United States, National Guard, or organized reserves from state firearm regulations. The following restrictions do not apply when the member is acting within the scope of his or her official duties:

- Restricting a person under the age of eighteen from possessing a firearm (RCW 9.41.042)
- Restrictions against carrying. (RCW 9.41.060)
- Restrictions and background check requirements for the sale and transfer of firearms (RCW 9.41.113)
- Prohibition from possessing a firearm on restricted premises (RCW 9.41.300)

Further, any member of the armed forces of the United States, National Guard, or organized reserves who is unable to renew a CPL because of the person's assignment or deployment out of state may renew his or her license within ninety days after the person returns to the state. (RCW 9.41.070).

Possession by Offenders (RCW 9.41.045)

As a sentence condition, offenders under the supervision of the Department of Corrections (DOC) may not own, use, or possess firearms or ammunition. In addition to other penalties in law, an offender in possession of a firearm are subject violation and sanctions through DOC.

Alien Firearm Possession (RCW 9.41.171)

It is a Class C felony for any person who is not a citizen of the United States to carry or possess a firearm unless the person is a lawful permanent resident, has obtained a valid alien firearm license, or meets certain limited exceptions.

III. Sales and Transfers of Firearms

In Washington, only licensed firearms dealers are authorized to engage in retail sales of firearms. In order to obtain a dealer license, the person must first receive a federal firearms license and undergo a fingerprinting and background check through local law enforcement. Any employee of the dealer must also undergo a fingerprinting and background check and be eligible to possess a firearm. (RCW 9.41.110.)

Dealers must comply with both state and federal background check requirements before transferring firearms to persons who are not also dealers. Under federal law, a dealer cannot sell a firearm or ammunition to a person whom the dealer knows, or has reasonable cause to know, is federally prohibited from possessing a firearm. The consequence for willful violations of the federal background check requirement is revocation of the federal firearms license (subject to a hearing) and imposition of a civil fine. In addition, a knowing violation of the background check requirements can subject the dealer to criminal prosecution and up to ten years imprisonment.

Under state law, it is a class C felony for a person to transfer a firearm to another person whom the transferor has reasonable cause to believe is ineligible to possess a firearm. (RCW 9.41.080.) Initiative 594, passed by Washington voters in 2014, subjects most private transfers between individuals to a background check conducted through a licensed dealer. First-time, knowing violations of this requirement are a gross misdemeanor punishable by up to one year in jail and up to a \$5,000 fine. (RCW 9.41.113.)

Both federal and Washington law prohibits purchases by straw buyers. A straw purchase is buying a firearm for someone who is prohibited by law from possessing one, or buying a firearm for someone who does not want his or her name associated with the transaction. Such transfers are punishable under federal law by a \$250,000 fine and two years in federal prison.

Dealers have access to the National Instant Criminal Background Check System (NICS). A NICS check usually returns an immediate response. There is no federal waiting period. The dealer is notified that the transfer may proceed, may not proceed, or is delayed pending further review of the applicant's history. Under Washington law, a transfer cannot take place until the person receiving the firearm passes the background check, or ten business days have elapsed from the date the licensed dealer requested the background check, whichever occurs earlier.

Washington's Distinction Between Pistols and Long Guns

In Washington, the process for conducting a background check for a potential purchaser differs with the type of firearm (pistol or long gun), and depends on whether the purchaser already has a concealed pistol license. NICS checks are initiated either by the dealer who contacts NICS directly or by a state "point of contact" agency designated by the state, or both. Washington is considered a "partial point of contact" state because 260 sheriffs and police departments

request NICS background checks for pistols, but dealers perform the NICS background checks for long guns and pistol purchases for those with a concealed pistol license.

Local law enforcement agencies conduct required state background checks for pistol purchases in all instances. A summary of background check processes is below:

Type of Firearm or License	Who Checks State and Local Databases?	Who Checks the Federal NICS Database?
Concealed pistol license	Local law enforcement	Local law enforcement
Handgun <i>with</i> concealed pistol license	Local law enforcement	Dealer
Handgun <i>without</i> concealed pistol license	Local law enforcement	Local law enforcement
Long gun (rifles, shotguns)	N/A	Dealer

Long gun purchases are handled exclusively between the dealer and NICS. Firearms dealers contact NICS by phone or electronically (known as “e-check”) to determine whether a prospective purchaser is prohibited from possessing a firearm. Dealers also have the option of requesting a check on a person who attempts to pawn a firearm.

For a pistol sale or transfer, if the purchaser does not have a valid concealed pistol license, the dealer contacts one of Washington’s 260 local sheriffs or police departments to conduct the NICS check and a state background check. If the proposed pistol purchaser has a valid concealed pistol license, the dealer will conduct a NICS check, and the local law enforcement agency will conduct the required state background check.

A state background check includes an individualized check of the databases of the Washington State Patrol, DSHS, and local mental health agencies. Many of these disqualifying state records are electronically submitted to NICS and will ultimately show up in a NICS check.

The Department of Licensing's Role in Washington's Firearms System (RCW 9.41.129)
Department of Licensing (DOL) has no regulatory role in Washington's firearms system. Rather, DOL has a limited, record keeping role in firearms data collection and maintenance. DOL maintains three types of records issued by local law enforcement agencies: records of concealed pistol licenses, alien firearms licenses, and pistol transfer applications used when a pistol is transferred through a licensed firearms dealer.

DOL does not determine whether to issue or revoke a concealed pistol license or alien firearms license. Nor does DOL have authority to determine whether a pistol transfer should proceed. This authority is held by local law enforcement.

Mental Health Records

In 2009, the Legislature amended Washington law to require courts to forward mental health commitment records to NICS and the Washington Department of Licensing (DOL) within three business days after a commitment order is issued and removed the requirement for DSHS to enter information into the federal database. (RCW 9.41.047.)

Involuntary mental health treatment orders are also sent to DOL for matching with its concealed pistol license records. If DOL finds a match, notice to revoke that person's license is sent to the local law enforcement agency that originally issued it. Once DOL checks its database for the presence of a concealed pistol license, the mental health record from the court is destroyed.

Out of State Purchasing (RCW 9.41.122)

Residents of Washington may purchase rifles and shotguns in a state other than Washington from a federally licensed dealer. For internet sales and the purchase of a pistol out of state, residents are subject to procedures and background checks required by Washington law. Procedurally, this requires purchase of the firearm from a federally licensed dealer and shipment to a licensed Washington dealer who will conduct the necessary background checks before transfer of ownership to the purchaser.

IV. Restoration of Rights

A person prohibited from possessing a firearm by reason of having been involuntarily committed for mental health treatment may, upon discharge, petition the court to have his or her right to possess a firearm restored. In order to have the right to firearms restored, the petitioner must prove by a preponderance of the evidence that:

- The person is no longer required to participate in court-ordered treatment;
- The person has successfully managed the condition related to the commitment;
- The petitioner no longer presents a substantial danger to themselves or the public; and
- The symptoms related to the commitment are not reasonably likely to recur.

Once a person's right to possess a firearm has been restored, the person may request return of any firearms surrendered to law enforcement. Prior to returning a surrendered firearm, the law enforcement agency must confirm the person remains eligible under the law to possess a firearm. If a family or household member has requested to be notified of the return of any firearms to the person, law enforcement must provide notice to the family member and hold the firearm for seventy-two hours before releasing it to the owner. (RCW 9.41.047.)

A person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm may petition the court for restoration of his or her firearm rights if:

- The person was not convicted of a sex offense or Class A felony;
- The person has not been charged with a new crime for the last consecutive five years if the underlying conviction was a felony, or three years if the underlying conviction was a nonfelony;
- The underlying offense does not specifically prohibit firearm possession. (RCW 9.41.040.)

Federal law also prohibits firearm possession for a person convicted of a domestic violence crime. There is currently no firearms restoration procedure under federal law. The definition of domestic violence differs slightly under federal law, but for many domestic violence crimes, a person will not be able to restore his or her firearm rights.

V. Firearms and Domestic Violence

The Washington legislature has taken several steps to prohibit domestic violence perpetrators from possessing firearms, including prohibiting firearm possession for persons convicted of DV related offenses and for persons subject to DV related protection orders. The law also provides the ability for a person or law enforcement to obtain an extreme risk protection order specifically ordering a person to surrender his or her firearms when there are DV concerns.

Domestic Violence Convictions

As referenced in Section II, a person may not own a firearm if the person has been convicted or found not guilty by reason of insanity of any one of the following misdemeanor crimes committed by one family or household member against another:

- Assault in the fourth degree;
- Coercion;
- Stalking;
- Reckless endangerment;
- Criminal trespass in the first degree;
- Harassment; or
- Violation of the provisions of a protection order or no contact order restraining the person or excluding the person from a residence.

Protection Orders

A person subject to most types of protection orders, no-contact orders, or restraining orders may, under some circumstances, be required to surrender their firearms, dangerous weapons, and CPL while the order is in place. In entering an order, if the person to be restrained has used or threatened to use a firearm in the commission of a felony, or is otherwise disqualified from having a firearm, the court either may or must require the person to surrender their firearms, dangerous weapons, and CPL, depending on the evidence presented. (RCW 9.41.800.)

A party ordered to surrender firearms, dangerous weapons, and his or her CPL must file proof of surrender with the clerk of the court within five judicial days of the entry of the order. (RCW 9.41.804.)

In addition, extreme risk protection orders allow a court to prohibit a person from possessing, purchasing, or receiving a firearm if the court finds that the person poses a significant danger of causing personal injury to self or others by purchasing, possessing, or receiving a firearm. The person is required to surrender any firearms in the person's possession as well as any CPL. If the person does not do so, the court may issue a warrant authorizing the search of any location firearms are reasonably believed to be and seizure of any discovered firearms. (Chapter 7.94 RCW.)

VI. Carrying and Concealed Pistol Licenses

Washington is an "open carry" state - it is legal in Washington to carry any firearm that is not concealed unless the circumstances that either manifest an intent to intimidate another or that warrant alarm for the safety of other persons. Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol (CPL). (RCW 9.41.050-.060.)

Washington is a "shall issue state". States that issue CPLs are generally categorized as either "shall issue" or "may issue" states. In "shall issue" states, law enforcement officials are required to issue a permit to anyone who meets certain minimal statutory requirements (e.g., that the person is not a convicted felon or mentally incompetent). "May issue" states give discretion to the issuing official to grant or deny the permit, based on various statutory factors.

In order to obtain a CPL, a person must submit a license application to the local law enforcement agency and undergo a fingerprint-based background check to determine eligibility. The applicant's CPL application cannot be denied, unless:

- He or she is ineligible to possess or is prohibited from possessing a firearm under federal law;
- The applicant's concealed pistol license is in a revoked status;
- He or she is under twenty-one years of age;
- He or she is subject to a court order or injunction regarding firearms;
- He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;
- He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or
- He or she has been ordered to forfeit a firearm within one year before filing an application to carry a pistol concealed on his or her person. (RCW 9.41.070.)

A CPL is valid for five years and may be renewed for successive five-year periods.

Reciprocity

Washington will recognize a license to carry issued by another state if the other state's laws are substantially similar to Washington concealed carry laws. Specifically, Washington will grant reciprocity if:

- The licensing state does not issue concealed pistol licenses to persons under twenty-one years of age; and
- The licensing state requires mandatory fingerprint-based background checks of criminal and mental health history for all persons who apply for a concealed pistol license.

The license holder must comply with Washington's concealed carry laws while in this state. The attorney general periodically publishes a list of states that Washington recognizes under this section. (RCW 9.41.073.)

VIII. State Preemption

The state of Washington preempts the entire field of firearms regulation within the boundaries of the state, including the registration, licensing, possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms, or any other element relating to firearms. Cities, towns, and counties may enact only those laws and ordinances relating to firearms that are specifically authorized by state law. (RCW 9.41.290)

Pursuant to RCW 9.41.300, cities, towns, counties, and other municipalities may enact laws and ordinances:

- Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and
- Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:
 - Any pistol in the possession of a person with a CPL; or
 - Any showing, demonstration, or lecture involving the exhibition of firearms.

A municipality's authority to additionally restrict persons possessing a CPL from bringing firearms on government premises has been challenged. The court has found that such a restriction is permissible when the municipality is acting in a private capacity, such as when it enters into an agreement allowing private persons to rent government facilities or premises. *Cherry v. Municipality of Metropolitan Seattle*, 116 Wn.2d 794 (1991), *Pacific Northwest Shooting Park Association v. City of Sequim*, 158 Wn.2d 342 (2006), and *Chan v. City of Seattle*, 164 Wash. App. 549 (2011)

IX. Miscellaneous Firearm Provisions

Obliteration or Alteration of Firearm Identification (RCW 9.41.140)

It is illegal for any person to obliterate or alter the identification marks place on any firearm including the make, model, manufacturer's number of other mark of identification. Possession of a firearm with an obliterated or altered identification is prima facie evidence that the possessor altered the firearm. (RCW 9.41.140.)

Unauthorized Possession of a Firearm on School Grounds (RCW 9.41.280)

It is illegal for any unauthorized person to possess or bring a firearm on the premises of any public or private elementary or secondary school, school provided transportation, or other facilities while being used exclusively by public or private schools. Generally authorized persons are limited to law enforcement officers or persons directly engaged in school district security activities. Violation is a gross misdemeanor.

The federal Gun-Free School Zone Act also prohibits carrying a firearm within 1,000 feet of elementary or secondary schools. On-duty law enforcement officers are exempted from the Act.

Post-secondary institutions in Washington regulate firearms by rule. All of these institutions assert that they derive the power to regulate the firearms under their general rule-making authority.

The rules vary by institution. Those with residential campuses are more likely to allow possession with restrictions on storage and notice to administration requirements. Those without residential facilities are more likely to restrict possession.

Other Restricted Possession Locations (RCW 9.41.300)

Other restricted firearms possession locations provided by state law are:

Areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) held for extradition or as a material witness, or (iii) otherwise confined pursuant to an order of a court. Restricted access areas do not include common areas of egress or ingress open to the general public.

Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings.

Restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally

ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age; or

The restricted access areas of a commercial service airport designated in the airport security plan approved by the federal transportation security administration.

X. Assault Weapons

The term assault weapon or assault rifle has been used in various jurisdictions to define certain types of firearms. The exact definition varies by jurisdiction, but generally refers to a semi-automatic firearm with the capacity to accept a detachable magazine and also having either one or two other distinguishing features such as a:

- Pistol grip;
- Thumbhole stock;
- Folding or telescoping stock;
- Second handgrip that can be held by the non-trigger hand;
- Flash suppressor; or
- Grenade launcher.

The definition may also include reference to specific firearms.

Federal Assault Weapons Ban

In 1994, Congress passed the Violent Crime Control and Law Enforcement Act, which included a ban on assault weapons manufactured after the date of the ban's enactment. The Act prohibited the manufacture, transfer, or possession of "semiautomatic assault weapons" as well as the transfer and possession of "large capacity ammunition feeding devices." The law expired on September 13, 2004 due to a sunset provision and has not been renewed.

The Act separately defined assault rifle, assault pistol, and assault shotgun. Generally, the definition required the firearm accept a detachable magazine and have two or more distinguishing features. It also included a ban of 19 specifically named models of firearms as well as copies of those guns. That list included firearms such as the AK-47, AR-15, MAC-10, and TEC-9.

Other States

Seven states and the District of Columbia currently have some form of ban on assault weapons. Those states include California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York.

Minnesota and Virginia both define assault weapons in some manner and place additional regulations on the sale and transfer of the weapons.

- Minnesota prohibits the possession of "semiautomatic military-style assault weapons" by persons under 18 years of age as well as other prohibited persons. Purchase of an assault weapon requires a permit to purchase (or carry) similar to the purchase of a handgun.
- Virginia requires proof of age over age 18 and proof of citizenship in order to purchase an "assault weapon." Some cities and counties disallow the open carry of any firearm

defined as an assault weapon. Plastic firearms and certain specific firearms such as the striker 12 shotgun are also prohibited.

Washington Proposals

Legislation addressing assault weapons was first proposed in 2017 at the request of the Attorney General and further considered in the 2018 legislative session. No version of the bill made it to the Senate or House floor for a vote. Below is a table of how the terminology, definition, and requirements of the proposed legislation have evolved over time, including Initiative 1639.

Proposal	Terminology	Definition	Sale & Purchase	Prohibits purchase under age 21
SB 5444/HB 1387 (2017)	Assault weapon	Generally defined as a semiautomatic firearm with the capacity to accept a detachable magazine and having one or more distinguishing features	Requires "assault weapon license"	No
SSB 5444 (2018)	Assault weapon	Same as SB 5444	Requires state and federal background check, similar to handgun purchase	No
SB 6620 (2018)	Semiautomatic rifle or shotgun with tactical features	Same as SB 5444	Same as above	Yes
SSB 6620 (2018)	Semiautomatic rifle	Rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge	Same as above	Yes
I-1639	Semiautomatic assault rifle	Same as SSB 6620, but specifically excludes antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.	Same as above <u>and</u> must have completed recognized firearm safety training program	Yes

Second Amendment Challenges

Second Amendment challenges to assault weapon bans have been unsuccessful and to date, the U.S. Supreme Court has declined further review. Notable cases include:

- *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017) (en banc) Maryland's assault weapons ban does not violate the Second Amendment;
- *New York State Rifle & Pistol Ass'n v. Cuomo*, 804 F.3d 242 (2d Cir. 2015) New York and Connecticut laws prohibiting possession of semiautomatic assault weapons and large-capacity magazines do not violate the Second Amendment;
- *Friedman v. City of Highland Park*, 784 F.3d 406 (7th Cir. 2015) upholding local ordinance prohibiting assault weapons and large capacity ammunition magazines.

Both sides of the issue have looked to the Supreme Court's ruling in *District of Columbia v. Heller*, 554 U.S. 570 (2008), for guidance. In *Heller*, the Court was asked to determine whether the District of Columbia's provisions banning the ownership of handguns and requiring the safe storage of firearms in the home violated the Second Amendment. The court struck down the provisions as an unlawful infringement, holding that the Second Amendment protects those weapons in common use by citizens for lawful purposes and stating that the provisions amounted to the prohibition of an entire class of arms that Americans overwhelmingly choose for the lawful purpose of self-defense.

The court went on, however, to clarify that the Second Amendment does not confer an "unlimited right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." The court identified laws it considered presumptively lawful including prohibitions of firearm possession by felons and the mentally ill, forbidding possession in sensitive places such as school and government buildings, and imposing conditions on the commercial sales of firearms. The court clarified that these provisions were examples and not meant to be an exhaustive list. *Heller*, 554 U.S. at 626-627.

Lower courts have applied the reasoning in *Heller* to assault weapon bans with a two-part analysis focusing on

- (1) Whether the weapons are in common use and typically possessed by law-abiding citizens for lawful purposes; and
- (2) Whether the government's prohibition is substantially related to a lawful purpose.

Although the court in *NY State Rifle* acknowledged opposing viewpoints, it found that firearms typically labeled as assault weapons are in common use and typically possessed for lawful purposes. In the second part of its analysis, however, it found that the ban was substantially related to the government's interest of preventing mass shootings and reducing the number of particularly hazardous weapons in circulation among criminals. The court was unconcerned that the law may have minimal impact on violent crime, particularly given "the dearth of evidence that law-abiding citizens typically use these weapons for self-defense." *New York State Rifle*, 804 F.3d at 263.

Appendix A: Select Recent Firearm Legislation

Adopted

Bill Number	Brief Summary
SSB 5553 (2018)	Provides a procedure for the voluntary waiver of firearm rights and the revocation of the voluntary waiver.
SB 6298 (2018)	Adds the crime of harassment to the list of domestic violence misdemeanor convictions that prohibit possession of a firearm.
EHB 2519 (2018)	Requires a law enforcement agency to ensure a person meets the eligibility requirements for a concealed pistol license prior to returning a CPL that has been surrendered to law enforcement.
SHB 1501 (2017)	Requires firearms dealers to report to WASPC all instances where an application for the purchase or transfer of firearm is denied based on eligibility and establishes a grant program for local law enforcement agencies to conduct criminal investigations of persons illegally attempting to purchase or transfer firearms.
ESB 5992 (2018)	Prohibits the manufacture, sale, or possession of a bump-fire stock and establishes criminal penalties. Requires the Washington State Patrol (WSP) to establish and administer a bump-fire stock buy-back program to allow a person to relinquish a bump-fire stock to the WSP.

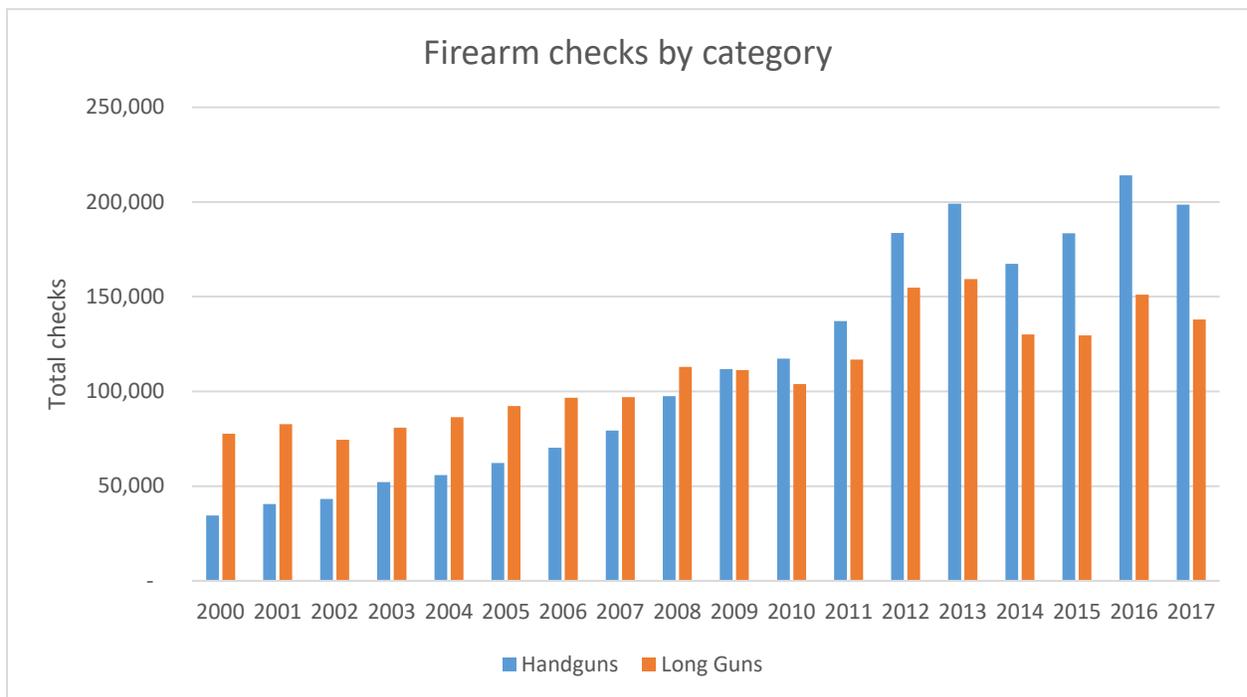
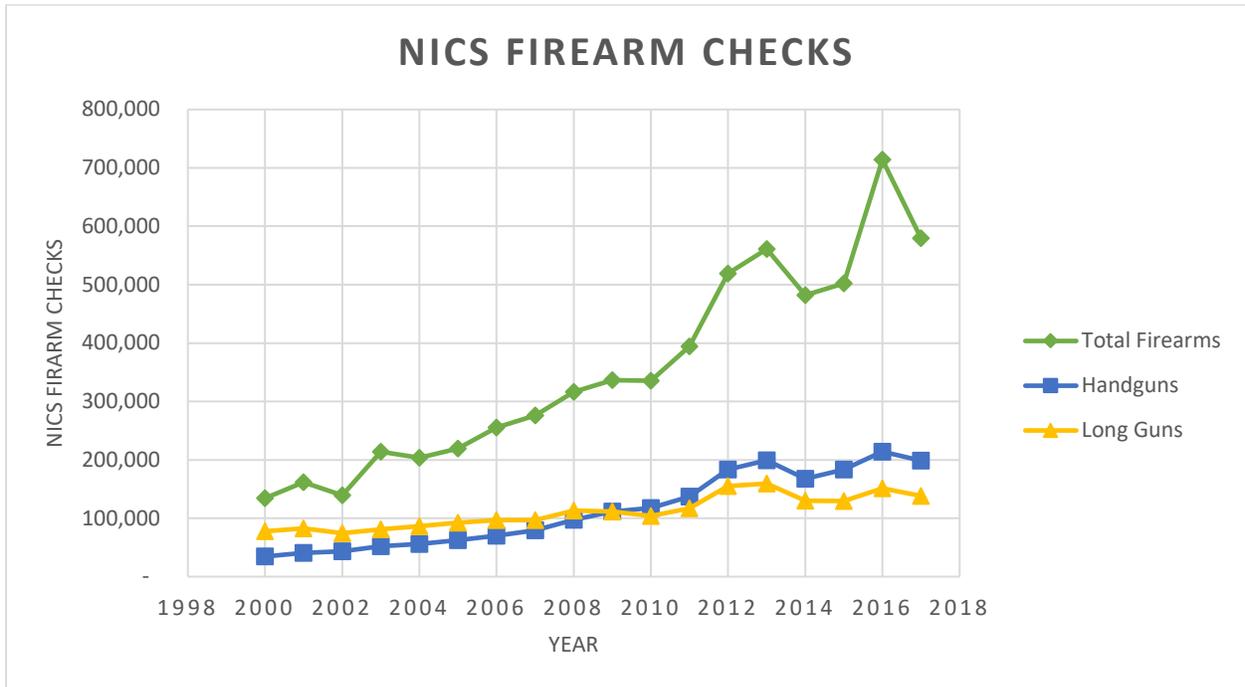
Introduced but not Adopted

Bill Number	Brief Summary
SB 5444 (2017)	Prohibits the sale and transfer of an assault weapon unless both a federal and state background check have been completed through law enforcement and prohibits a person under the age of twenty-one from purchasing an assault weapon.
SB 5463/HB 1122 (2018)	Creates a duty for the safe storage of firearms and civil liability for violations of the duty that result in injury, death, or the commission of a crime.
SB 6620 (2018)	Prohibits the sale or transfer of a semiautomatic rifle unless both a federal and a state background check have been completed through law enforcement. Prohibits a person under the age of 21 from purchasing a semiautomatic rifle.
SB 6049/HB 2422 (2018)	Prohibits the manufacture, possession, sale, or transfer of a large capacity magazine with the capacity of holding more than ten rounds of ammunition, unless the possession falls within one of the stated exceptions.
SB 6476 (2018)	Establishes an exemption from background check requirements for firearms sales or transfers between concealed pistol license holders.

Appendix B: Washington Gun Ownership and Crime Statistics

Gun Ownership

Gun ownership in Washington State is graphically represented through trends in NICS firearm checks from 2000-2017. See table below for specific number of checks. Note that Total Firearms includes checks for reasons other than pure firearm salesⁱ.



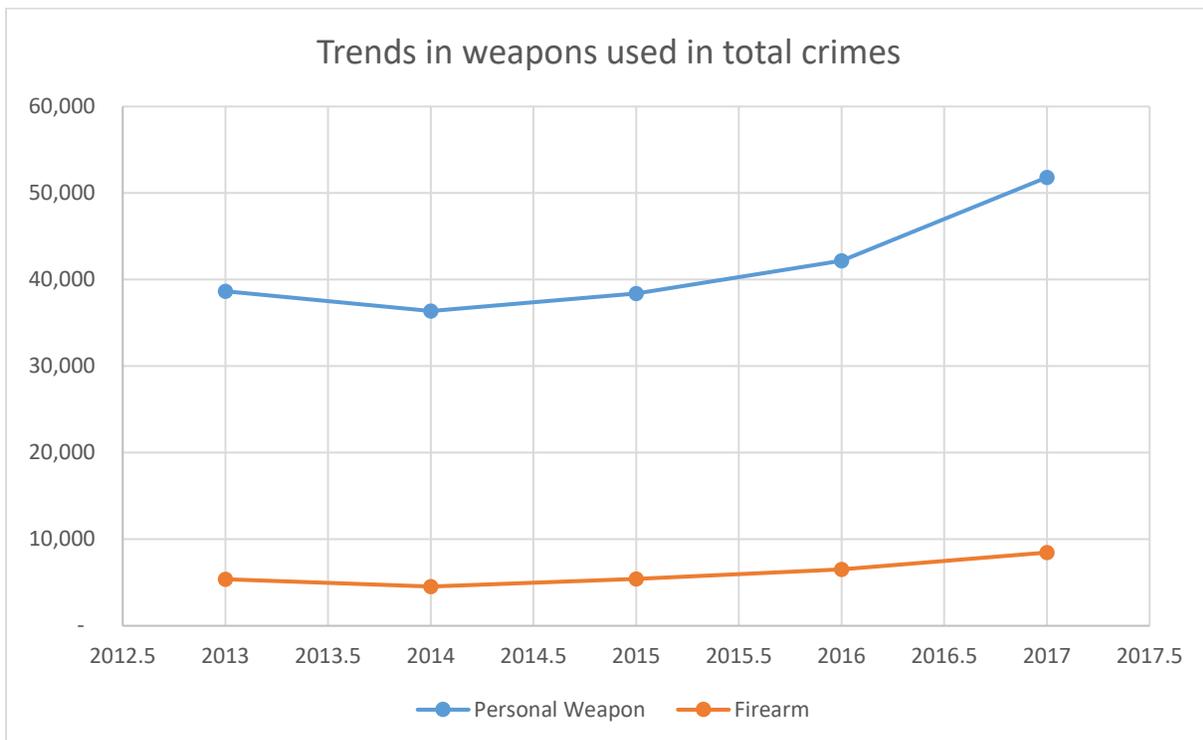
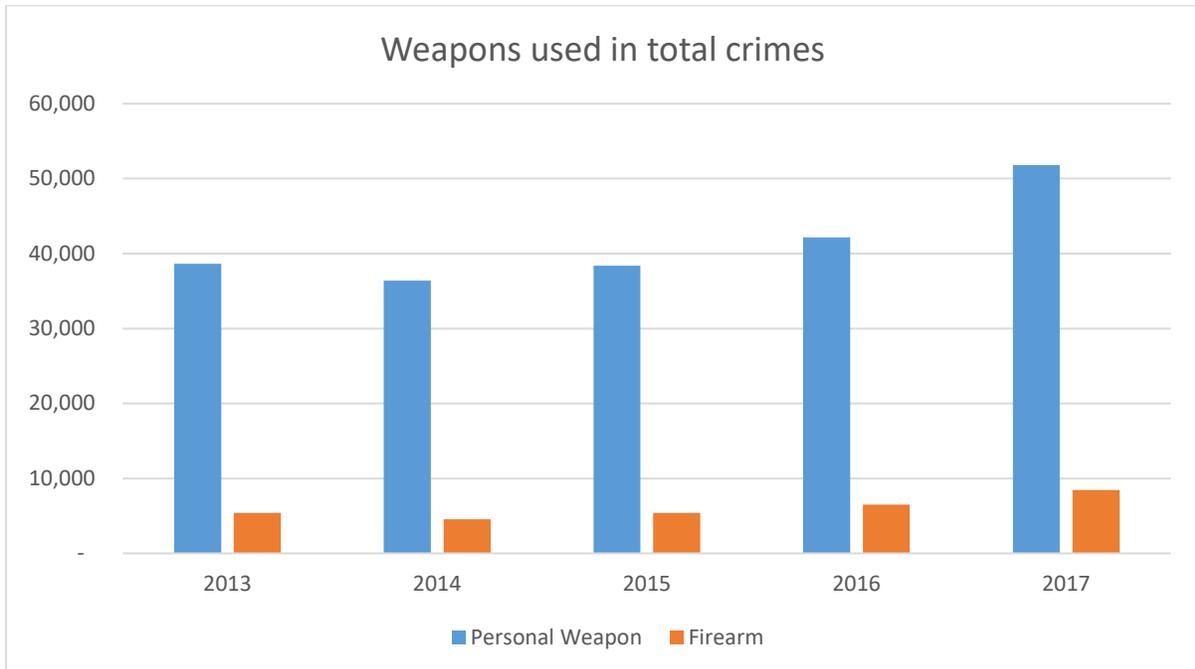
NICS Firearm Background Checks, 2000-2017

Year	Total Firearms ¹	Handguns	Long Guns
2000	134,255	34,495	77,732
2001	161,380	40,469	82,660
2002	139,439	43,246	74,411
2003	213,916	52,210	80,915
2004	203,432	55,820	86,352
2005	219,559	62,214	92,216
2006	255,387	70,278	96,733
2007	276,156	79,340	96,921
2008	316,589	97,464	113,027
2009	336,732	111,756	111,328
2010	335,342	117,336	103,848
2011	394,410	137,157	116,763
2012	519,209	183,670	154,850
2013	561,122	199,142	159,388
2014	482,115	167,432	130,056
2015	502,280	183,549	129,667
2016	713,996	214,106	151,029
2017	579,678	198,632	138,057

¹ Total firearms is calculated by the addition of handgun, long gun, other (refers to frames, receivers and other firearms that are not either handguns or long guns, such as firearms not having a pistol grip that expel a shotgun shell), multiple (multiple types of firearms selected), or administrative permits. These fall in the categories of *Pre-Pawn, Redemption, Returned/Disposition, Rentals, Private Sale, or Return to Seller - Private Sale*.

Weapons and Crime in Washington State

In 2017, personal weapons were reported in 51,817 incidents, while firearms were reported in 8,465 incidents (up to three weapon can be reported in each incident)ⁱⁱ.

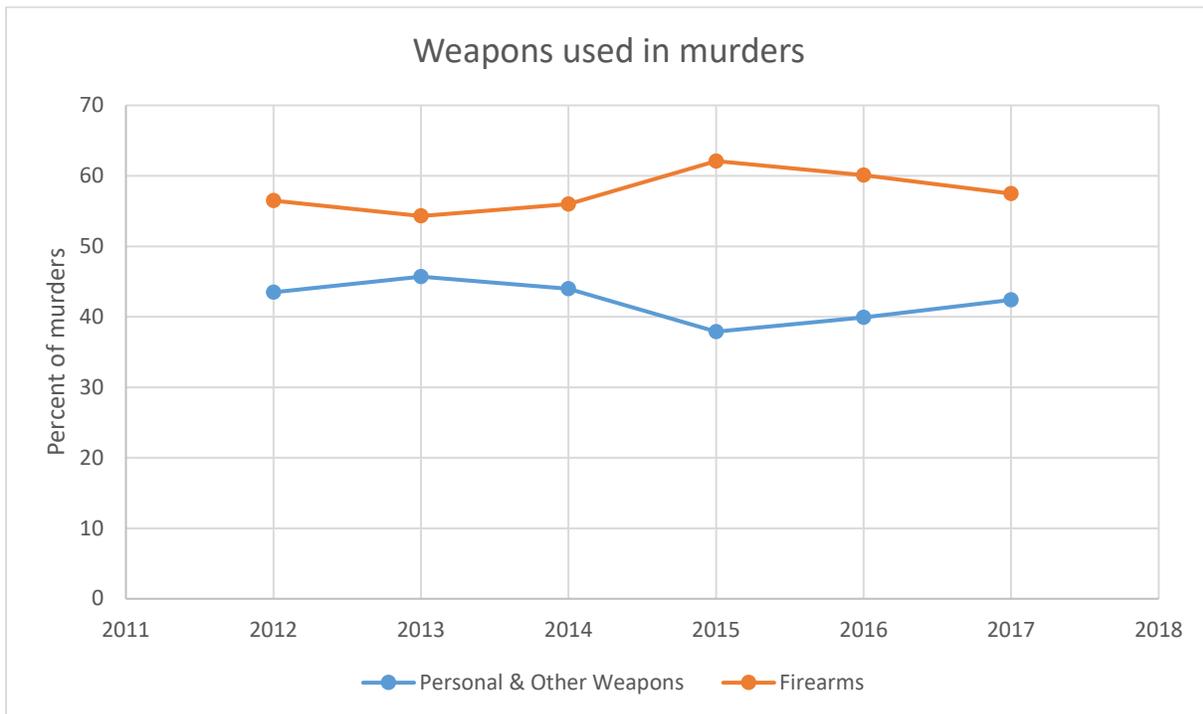
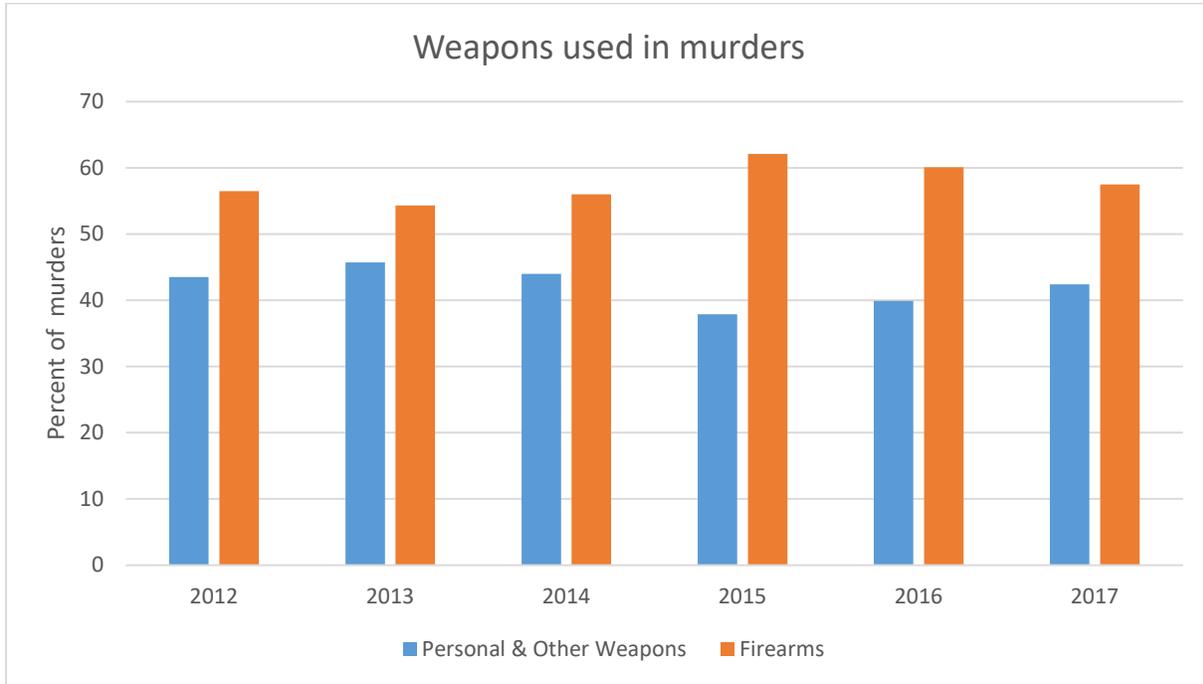


Weapons used in total crimes

Year	Personal Weapon	Firearm
2013	38,659	5,394
2014	36,372	4,535
2015	38,403	5,401
2016	42,172	6,509
2017	51,817	8,465

Weapons and Murder in Washington State

The rate of firearms used in murders during the time period of 2012-2017 is graphically shown. The information was sourced from the Washington Association of Sheriffs & Police Chiefs Annual Reports of 2012-2017ⁱⁱⁱ.



Weapons used in murders

Year	Personal & Other Weapons	Firearms
2012	43.5	56.5
2013	45.7	54.3
2014	44	56
2015	37.9	62.1
2016	39.9	60.1
2017	42.4	57.5

ⁱ Federal Bureau of Investigation. "National Instant Criminal Background Check System (NICS): NICS Firearm Checks: Year by State/Type." Criminal Justice Information System.

ⁱⁱ Washington Association of Sheriffs & Police Officers. "Crime in Washington 2012-2017." CJIS Statistics and Reports.

ⁱⁱⁱ I.b.i.d